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United States Senate

SELECT COMMITTEE ON INTELLIGENCE
WASHINGTON, DC 20510-8475

#89-0075

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January 3, 1989

Mr. Richard J. Kerr
Deputy Director for Intelligence
Central Intelligence Agency
Washington, D.C. 20505

Dear Mr. Kerr:

Congratulations on being nominated to the position of Deputy Director of Central Intelligence.

The Select Committee's consideration of your nomination is governed by Rule 5 of its Rules of Procedure. A copy of the Committee's rules are enclosed for your information. In order to facilitate the confirmation process, we also have enclosed for completion by you, the background and financial disclosure statement required by Rule 5.6. You may wish to submit a separate classified career record as an annex to your answers to questions number eight and nine.

In addition, enclosed for completion is a Questionnaire Supplement. Response to this supplement is made necessary by the fact that you were mentioned in testimony regarding the Iran-Contra matter, which was the subject of investigation by both the Executive and Legislative branches.

Please do not hesitate to contact the Committee offices if you have any questions.

Sincerely,



David L. Boren
Chairman



William S. Cohen
Vice Chairman

Enclosures

QUESTIONNAIRE SUPPLEMENT

1. On what date did you first learn information, either directly or indirectly, regarding the proposed sale of arms to Iran, what was that information, and what actions did you take or advise upon learning such information?
2. Since the date set forth in your response to question number 1 above, describe any and all actions taken by you and by others acting pursuant to your direction or advice with respect to both the proposed sale of arms to Iran and that aspect of the ensuing investigations by both the Executive and Legislative branches.
3. On what date did you first learn information, either directly or indirectly, regarding the transfer of intelligence to Iran, what was the information, and what actions did you take or advise upon learning such information?
4. Since the day set forth in your response to question number 3 above, describe any and all actions taken by you and by others acting pursuant to your direction or advice with respect to both the transfer of intelligence to Iran and that aspect of the ensuing investigations by both the Executive and Legislative branches.
5. On what date did you first learn information, either directly or indirectly, suggesting that funds derived from the sale of arms to Iran possibly had been used to support the Nicaraguan resistance, what was that information, and what actions did you take or advise upon learning such information?
6. From the date set forth in your response to question number 5 above, describe any and all actions taken by you and by others acting pursuant to your direction or advice with respect to both such support to the Nicaraguan resistance and that aspect of the ensuing investigations by the Executive and Legislative branches.

7. Describe any information presently known to you, either directly or indirectly, concerning activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law.

8. Describe any information presently known to you, either directly or indirectly, concerning any activities arising out of the Iran-Contra matter that you have reason to believe may be unlawful or contrary to Executive Order, which have not been reported to the Intelligence Oversight Board, or any activities which may involve violation of any federal criminal law which have not been reported to the Attorney General.

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or not he had raised it to the level of Clair George?

A I just assumed it had been cleared up the
line. I would naturally assume that. And today if the
same situation replicated itself I would probably react
the same way because we are taught to report up the line.

Q This kind of situation, it seems to me, would
also raise concerns about operational security. If you
found yourself in a situation where you got some very
angry Iranians who feel they have been grossly
overcharged and the Agency's response is we have to
create a false pricing list, I would think that would
cause people to be concerned about the operation being
blown in short order.

Did you have those concerns?

A That was my principal concern. My principal
concern was that the operation would be exposed, and I
was alarmed and I told Mr. Kerr that sometime, in my
recollection, in the August time frame.

Q Now Mr. Kerr at that time was DDI?

A Yes, sir. He was Deputy Director of
Intelligence.

Q And with regard to the conversation with Kerr
you would place it sometime in August, I gather.

A Yes, sir. He cannot, I believe, put a time
frame on it, but I would put it in the August period.

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1 Q Was there anybody else present at that
2 conversation?

3 A Not to my knowledge.

4 Q What motivated the conversation? What caused
5 you to have it with Mr. Kerr?

6 A I believe Mr. Kerr asked me for a verbal
7 update on the initiative because he'd been aware of it
8 for a considerable period of time. He had closely
9 followed the McFarlane trip into Iran. And I believe I
10 gave him an update and I talked to him of this strange
11 and rather bizarre impasse that had occurred that had
12 been dragging on for two months, or at least six weeks,
13 and that something was wrong.

14 And at that stage I was just speculating. I
15 said I wouldn't be surprised but what perhaps we are
16 overcharging at least the middleman on these matters in
17 order to send money to the contras. And he expressed
18 concern and we ended up talking about the operational
19 security of the problem, and I believe Mr. Kerr said it's
20 not a matter of whether it's going to be exposed but
21 when.

22 And I said yes, I'd have to sort of agree with
23 you that this has been holding for a long time. And I
24 said it's going to be extremely messy if there is
25 something amiss about the operation.

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Q This question really is not intended to be
critical, but you write that kind of memo in October.

A I didn't write it. That was a verbal
statement.

Q I understand. But by October clearly you are
bringing these kinds of thoughts to Casey and Gates in a
written format.

A Yes, sir.

Q Why in August when you had these concerns
didn't you take them to Casey or Gates?

A It was all speculation. I didn't have any
pieces of information. In retrospect I wish I'd walked
in or at least, you know, Mr. Cave and I or someone could
have sat down and analyzed the situation. I just didn't,
and I can't offer any dynamic explanations on why I
didn't. I saw and worried more than anything else over
the potential exposure.

Q Did you have any reason to think in August
that either Casey or Gates already knew there was an
overcharge going down on the situation?

A No, sir.

Q You did not?

A No, sir. I don't think they were necessarily
aware, unless they were told by someone out of the
Directorate of Operations. I don't believe I brought it

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From Iran - Contra Congressional Report

Chapter 15

North said that he continued until November 21, 1986, to assume that the President had approved the diversion. He testified that, on or about that day, he asked Poindexter directly, "does the President know?" He told me [the President] did not."⁴³ North testified that the President confirmed this lack of knowledge on November 25 when the President told him by telephone that, "I just didn't know."⁴⁴ Robert Earl, North's aide, testified that North had told him that the President had said "it is important that I not know."⁴⁵ Lt. Cmdr. Coy, the third office-mate, who was also present, did not recall any conversation about the President's knowledge.⁴⁶ Fawn Hall testified that North told her that the President had "called him an American hero" and said that "he [the President] just didn't know."⁴⁷

Except for the April memorandum, the memorandums that North claimed he sent Poindexter are gone. North testified that he destroyed them. Three drafts of the April memorandum were found in various locations in North's files. They are identical except for the precise date of the Israeli September 1985 TOW shipment on the first page.⁴⁸

Memorandums for the February, May, and October 1986 shipments, describing the use of the proceeds, do not exist. If they were prepared, they were destroyed.

Casey's Knowledge

Discrepancies about Casey's knowledge of the diversion also abound. Poindexter testified that he "purposely" did not discuss the subject with Casey.⁴⁹ Poindexter's reasoning was that Casey frequently had to testify before Congress and he did not want to place Casey in a position of having to lie.⁵⁰ Poindexter further testified that he had no indication that Casey was aware of the diversion aspect of the arms sales operation.⁵¹

North, on the other hand, testified that he "had consulted very carefully with Director Casey [about the diversion], and he . . . was very enthusiastic about the whole program."⁵² He stated that he had told Casey of the plan to use the proceeds for the Contras before the fact, and that he had reviewed with Casey (probably in February 1986) at least one memo referring to the diversion before sending it "up the line" for Presidential approval.⁵³

While still at the NSC, North made inconsistent statements about Casey's knowledge. He told Earl in the spring of 1986 that Casey knew.⁵⁴ But on November 23, when questioned by the Attorney General, North omitted Casey from the list of persons privy to the diversion. According to North, this omission occurred after Casey had suggested a "fall guy plan" in which North and, if necessary, Poindexter would take the blame.⁵⁵

Another CIA official, Charles Allen, became aware as early as January or February 1986 of the possibility of a diversion. Allen effectively acted as Ghorbani-

far's CIA case officer from their first meeting in January 1986. Allen's notes record that, early in their relationship, Ghorbanifar told him that money could be generated from the arms sales to support the Contras and other activities. Allen found Ghorbanifar's statements so "far-fetched" and "trivial" that, although he recorded them in his notes, he did not report them to his superiors.⁵⁶

By the end of August, Allen had focused on the inflated pricing of the arms sold to Iran and the possibility that money might have been diverted to the Contras.⁵⁷ Allen shared his concerns that same month with Richard Kerr, the CIA's Deputy Director of Intelligence, who had succeeded Robert Gates. According to Kerr, Allen told him that the United States had overcharged Iran in the sale of HAWK parts and that the excess money had possibly been diverted to assist the Contras.⁵⁸ Kerr said that, as best he could recall, Allen did not explain why he believed that funds might have been diverted to the Contras. Kerr told Allen to monitor the situation and keep him apprised of further developments.

Kerr recalls that he recounted Allen's diversion speculation to Gates, who told Kerr that he also wanted to be kept informed about the matter. Kerr took no further steps.⁵⁹

Allen remained "very troubled in September that the operation was to spin out of control."⁶⁰ On September 9, he met with North following a meeting between North and Poindexter on the Iran initiative. North told Allen that the First Channel into Iran was to be shut down, and that the Second Channel had "flourish[ed] into full bloom."

Allen was surprised by this information.⁶¹ He returned to the CIA "very nonplussed because I couldn't figure out why we would so abruptly shut down the first channel unless we had a very good plan for shutting it down in a way that Ghorbanifar and other creditors of Ghorbanifar would feel assuaged . . ."⁶² Nevertheless, the next day Allen reported this conversation to Casey matter-of-factly and without comment, including a flat, unexplained observation that "[t]o cut Ghorbanifar out, Ollie will have to raise a minimum of \$4 million."⁶³

On October 1, Allen took his worries to Gates. He told Gates that the Ghorbanifar channel was a "running sore," and that he was concerned that the Iran initiative was "going to be exposed if something isn't done."⁶⁴ He also told Gates that "perhaps the money has been diverted to the contras."⁶⁵ According to

⁵⁶ Later in the year, George Cave of the CIA grew suspicious when he learned that the Iranians were paying significantly more for the U.S. arms than the CIA was receiving, and heard speculation of a diversion to the Contras. Cave stated in his deposition that he did not report these concerns. Cave Dep., 4/17/87, at 158-59.

⁵⁷ Gates told the CIA Inspector General that he could not recall the meeting in which Kerr apprised him of Allen's suspicions. Kerr Int., 9/23/87, at 6-7.

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